IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7733 of 2000
with
SPECIAL CIVIL APPLICATION NO. 11217;
7391; 7364; 7379; 7362 ALL OF 2000
SPECIAL CIVIL APPLICATION NO4805; 4802; 3567 OF
2001

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHARDABEN H KALAWADIA
Versus
STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 7733 of 2000
MR HM PARIKH for Petitioner No. 1
GOVERNMENT PLEADER for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 22/12/2003

ORAL JUDGEMENT

#. Heard learned advocate Mr. H.M. Parikh for the petitioners and Mr. Gori, learned AGP for the respondent authorities. Learned advocate Mr. Parikh submits that the respondent authority has passed order on 11th January, 2000 granting certain benefits to the petitioner for upgradation and in view of the said order, the petitioner were required to submit details to the concerned authority within thirty days from the date of the order dated 11th January, 2000. Thus, according to the submission of Mr. Parikh, the order dated 11th January, 2000 passed by the respondent authority was in favour of the petitioner whereunder the petitioners were getting certain benefits. Learned advocate Mr. Parikh further submits that thereafter, the respondent authority passed an order dated 9th February, 2000 and thereby, the respondent authority cancelled the earlier order dated 11th January, 2000 whereunder the petitioners were getting certain benefits. Grievance has been raised by the learned advocate Mr. Parikh on behalf of the petitioners that the respondent authority has passed the order dated 9.2.2000 without affording any opportunity to the petitioners. Learned advocate Mr. Parikh submits that by order dated 9.2.2000, earlier order dated 11.1.2000 granting certain benefits in favour of the petitioners was cancelled and, therefore, the order dated 9.2.2000 was adversely affecting the prestige and civil rights of the petitioners and, therefore, it is violative of the principles of natural justice and, therefore, same is required to be quashed and set aside. He submits that admittedly no opportunity whatsoever has been afforded to the petitioners before passing the order dated 9.2.2000, cancelling the earlier order dated 11.1.2000 and, therefore, the order in question is required to be quashed and set aside on that ground alone without observing anything on the merits of the matter.

#. On the other hand, Mr. Ghori, learned AGP appearing for the respondents has submitted that no doubt, from the record, it appears that no such opportunity has been given to the petitioners before passing the order dated 9.2.2000 but it is within the rights of the respondent authority to pass appropriate orders in accordance with law and in consonance with the principles of natural justice and, therefore, according to his submission, the Court may pass appropriate orders without prejudice to the rights of the respondents to pass appropriate orders in accordance with law after giving reasonable opportunity to the petitioners and

after hearing the petitioners in that regard.

#. In view of the above submissions made by the learned advocates for the parties and also considering the order dated 9.2.2000, it is clear that it has been passed without affording any opportunity to the petitioners and, therefore, same is required to be quashed and set aside on that ground alone without observing anything on the merits of the matter as the respondents have, by passing the said order, cancelled their earlier order dated 11.1.2000 wherein certain benefits of upgradation were given to the petitioners. Therefore, according to my opinion, the order dated 9.2.2000 passed by the respondents is having adverse civil consequences and, therefore, before passing such an orders having adverse civil consequences, the petitioners ought to have been given reasonable opportunity to show cause as to why such an order should not be passed against the petitioners. I am, therefore, of the opinion that the orders in question dated 9.2.2000 are required to be quashed and set aside on that ground alone without observing anything on merits of the matter.

In the result, all these petitions are allowed. The orders dated 9.2.2000 passed by the respondent authority are hereby quashed and set aside as violative of the principles of natural justice. It is clarified that this Court has quashed and set aside the orders dated 9.2.2000 passed by the District Education Officer, Rajkot only on the ground that they were passed in violation of the principles of natural justice and in view of that, it will be open for the respondents to pass appropriate orders in accordance with law and also in consonance with the principles of natural justice after affording reasonable opportunity of hearing to the petitioners. It is clarified that this order has been passed by this Court without entering into the merits of the matter. Rule is made absolute in terms indicated hereinabove with no order as to costs.

Dt.22.12.2003. (H.K. Rathod,J.)

Vyas